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IN THE

Supreme Court of the United States

OCTOBER TERM, 1990

~~Supreme Court U.S.~~

FILED

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JOSEPH F. SPANIOLO, JR.
CLERK

STATE OF FLORIDA,

Petitioner,

—v.—

TERRANCE BOSTICK,

Respondent.

ON WRIT OF CERTIORARI TO
THE SUPREME COURT OF FLORIDA

**ADDENDUM TO BRIEF *AMICUS CURIAE* OF THE
AMERICAN CIVIL LIBERTIES UNION, THE ACLU OF
FLORIDA, NATIONAL ASSOCIATION OF CRIMINAL
DEFENSE LAWYERS, AND FLORIDA ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS, IN SUPPORT OF
RESPONDENTS**

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SUPPORT OF RESPONDENTS**

On December 19, 1990, *amici* submitted a brief in the above-entitled case that cited, at various points, the district court decisions in *United States v. Cothran*, 729 F.Supp. 153 (D.D.C. 1990), and *United States v. Lewis*, 728 F.Supp. 784 (D.D.C. 1990). *Amici* respectfully submit this addendum to their brief to notify the Court that

the previously cited decisions in *Cothran* and *Lewis* were reversed on appeal on December 21, 1990. See *United States v. Lewis*, Nos. 90-3029, 90-3034 (D.C.Cir. Dec. 21, 1990).

In *amici's* view, the reasoning adopted by the D.C. Circuit is based on an unduly cramped view of the Fourth Amendment and should be rejected by this Court. In particular, *amici* believe that the D.C. Circuit's opinion in *Lewis* significantly underestimates the constraints that are reasonably felt by any citizen, whether innocent or guilty, when confronted by the police in the cramped quarters of an interstate bus about to depart for its next destination.

Additionally, the facts of *Lewis* and *Cothran* are easily distinguishable from the facts of the instant case, as the D.C. Circuit itself acknowledged in its opinion. Explicitly contrasting the record before it with the record in this case, the D.C. Circuit wrote:

The evidence before us does not suggest that a reasonable bus passenger would find his "business" impeded by the officers' questioning. The officers neither wore badges nor carried visible weapons. Compare *Bostick v. State*, 554 So.2d 1153, 1154, 1157 (Fla. 1989)(seizure occurred aboard a bus where officers wore badges and raid jackets, and one officer held a pistol in a zipper pouch), *cert. granted*, 111 S.Ct. 241 (1990).

Thus, even accepted on its own terms, the D.C. Circuit's decision in *Lewis* is not inconsistent with the conclusion of the Florida courts that the police behavior in this case violated the Fourth Amendment.

CONCLUSION

For these reasons, and for the reasons stated in our original brief, *amici* continue to believe that the decision below was correct and should be affirmed.

Respectfully submitted,

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Dated: January 3, 1991